



Early Journal Content on JSTOR, Free to Anyone in the World

This article is one of nearly 500,000 scholarly works digitized and made freely available to everyone in the world by JSTOR.

Known as the Early Journal Content, this set of works include research articles, news, letters, and other writings published in more than 200 of the oldest leading academic journals. The works date from the mid-seventeenth to the early twentieth centuries.

We encourage people to read and share the Early Journal Content openly and to tell others that this resource exists. People may post this content online or redistribute in any way for non-commercial purposes.

Read more about Early Journal Content at <http://about.jstor.org/participate-jstor/individuals/early-journal-content>.

JSTOR is a digital library of academic journals, books, and primary source objects. JSTOR helps people discover, use, and build upon a wide range of content through a powerful research and teaching platform, and preserves this content for future generations. JSTOR is part of ITHAKA, a not-for-profit organization that also includes Ithaka S+R and Portico. For more information about JSTOR, please contact support@jstor.org.

of Connecticut recently reminded us in *Hoxie v. R. R.*,¹ a "general American common law, resting on considerations of right and justice," but each State has its own distinct embodiment of that law and the general American common law is not to be ascertained by throwing into a heterogeneous mass all the decisions of all the States but by summing up the points in which they all agree and in noting carefully the numerous points of disagreement and divergence. Uniformity of law throughout the land is, indeed, a consummation much to be desired, but it certainly is not a present fact and it cannot be attained by ignoring but rather by recognizing and criticising the aberrations from the main body of principles and rules.

As has been said above, Mr. Tiffany has not been content, in Underhill's phrase, "to record the law as he has found it to exist" (a parlous undertaking) but has presented to the reader a reasoned discussion of principles, with such criticism of the authorities as that enterprise called for. This makes the book of value to the student and teacher of law as well as to the practitioner. But in his attitude with respect to legal development our author belongs distinctly to the conservative school of jurists. This attitude is well illustrated by his criticism of the recent tendency of the courts to treat as a constructive eviction the failure of a landlord to observe covenants the breach of which renders the demised premises untenable (Vol. II, p. 1271). One need not be an "insurgent" or even a dangerous "progressive" to recognize the validity of new adaptations of the law to new conditions, even though this may involve the restatement of time-honored principles or even the abandonment of old conceptions as to the scope of legal remedies; and it would seem to be only a proper use of the principle of eviction to apply it to the case of the tenant in a modern, steam-heated apartment, who is forced to abandon the premises through the owner's failure to furnish adequate heat in pursuance of his contract so to do.

Other instances of this tendency of our author might be cited but the defect is, in the present state of legal thought in this country, a manifestation of orthodoxy and not of heresy and must not be pressed too hard. Least of all should it lead the reader to overlook the merits of a very solid, learned and valuable contribution to our legal literature. The work is worthy to stand beside the same author's "Law of Real Property" and to say that is to give it high praise.

G. W. K.

THE CONSTITUTION OF THE COMMONWEALTH OF AUSTRALIA. By W. HARRISON MOORE. Melbourne: CHARLES F. MAXWELL. 1910. pp. xxviii, 782.

One of the most valuable services rendered by the study of comparative constitutional law is the bringing of our own institutions out into a new and bolder relief; and for this reason (as well as on account of its intrinsic merits) Mr. Moore's Constitutional Law ought to meet with a hearty welcome in the United States. It is so systematically and carefully done; it contains such copious references to the judicial decisions of our own tribunals; and it illuminates so many federal problems (now more complex and vexatious than ever) that one could hardly imagine a better book to keep alongside of Story, Kent, and Willoughby. It deals exhaustively with such themes as the organization and powers of the Australian federal government, the place

¹(1909) 82 Conn. 352, 360.

of the states in the system, and judicial control of legislation. All this part of the volume is based upon a painstaking examination of constitutions, statutes, judicial decisions, and political practice. Here are all the formal facts about Australian government which the most exacting legist could demand set forth in a straightforward, engaging manner. But the book is more than a formal treatise, for the author recognizes with Thayer that "the study of constitutional law is allied not merely with history, but with statecraft and with the political problems of our great and complex national life." Accordingly he brings within his survey larger matters which are at the same time juristic, political, and economic—the place of the federal system in the British Empire (the despair of all systematists), the essentials of legislative, executive, and judicial power; the weight of judicial precedent; and the social implications of "right" and "liberty." Among the most interesting pages for the American lawyer are those dealing with the intervention of the state and federal governments in the causes of private parties involving constitutional questions, and those pages analyzing the nature of the federal taxing power. "The High Court of Australia," he says, p. 365, "has in several instances allowed the state government or the Commonwealth Government to intervene in suits in which it was not a party on the record, *e. g.* * * * where the state of Victoria was heard on the ground of community of interest; * * * where Victoria was again an intervenant, the case being one which raised the whole question of the relation between the Commonwealth and state governments, not in one particular only, but generally; * * * the *Woodworkers Case* where the Commonwealth and the state of New South Wales intervened." Those who would stretch the Federal commerce powers to cover the products of child labor will read with profit the pages which deal with the case holding unconstitutional the Excise Tariff Act of 1906 making discriminations in duties on agricultural implements according to "certain conditions as to the remuneration of labor in their manufacture" (pp. 511 ff.). In this case the court took the view that the Act was "primarily an Act to compel all persons engaged in this industry to pay a certain rate of wages, and the imposition of the 'tax' was a mere incident to this substantive purpose." The Act was thus frankly viewed as a law to regulate a certain branch of manufacturing—a matter referred by the constitution to the states—and was held invalid. "If this were not so," said the court, "the Commonwealth Parliament might assume and exercise complete control over every act of every person in the Commonwealth by the simple method of imposing a pecuniary liability on everyone who did not conform to, specified rules of action." These little glimpses into Mr. Moore's informing volume will surely serve to show that it has a moving interest for students of federal law who may never have the good fortune even to visit the new Commonwealth far away in the Southern Seas.

C. A. B.

QUESTIONED DOCUMENTS. By ALBERT S. OSBORN. With an introduction by PROFESSOR JOHN H. WIGMORE. Rochester, N. Y.: THE LAWYERS' CO-OPERATIVE PUBLISHING Co. 1910. pp. xxiv, 501.

Mr. Osborn's book is by far the best English work on the subject. It is a careful and complete exposition of the science and art of the examination of questioned documents, the methods of investigating